

Ser. No. 09/974,790
Response to Office Action of 13 February 2003
Atty Docket 117163-29

REMARKS

Claims

Claims 1-60 were pending at the time of the Office Action. Although the prior response indicated in the Remarks that claims 7-10 had been cancelled, these claims were not cancelled in the listing of claims, and are considered to still be in place. It is noted that the Examiner's rejection of all claims under U.S. Patent 5,695,516 to Fischell et al. ("Fischell '516") is not repeated, so it is understood that the Fischell '516 rejection has been overcome.

35 USC §102 Rejections

Haindl (US 5,931,867)

Claims 1-60 stand rejected as being anticipated by U.S. Patent 5,931,867 to Haindl ("Haindl '867").

It is respectfully submitted by the applicant that the Examiner's rejection of the claims is based upon an incorrect interpretation of the drawings in Haindl '867. The error arises from the fact that it is common in this art to display the structures of the stent at issue in a planar fashion, rather than in the cylindrical manner in which they are encountered in actual use. In the cylindrical condition, it is easy to distinguish the difference between the longitudinal direction of the device and the circumferential, or peripheral, direction of the device. Certainly, most of the devices in this art will not properly function if the planar structure is rotated 90° when the device is assembled. To be perfectly clear about this point, all further reference in this response about the "longitudinal direction" is to the direction defined by the axis of the assembled cylindrical stent and the "peripheral" or "circumferential" direction is the direction that is defined by the set of points that lie at a fixed radial distance from a given point on the axis.

Based upon this, the applicant believes that the Examiner has not supported the determination of the directionality of the structures in Haindl '867. The Haindl '867 bar elements extend in the **circumferential** direction and not in the **longitudinal** direction, as required by the applicant's independent claims. The Haindl '867 meander structure is defined by connection of the first elongate members (1) and the bridging links (5) and extends in a **peripheral** direction as defined in claim 1 of Haindl '867 ("a plurality of elongate members (1) which extend in a direction of the longitudinal axis and positioned circumferentially around the body"). In other words, in figure 1 of Haindl '867, the vertical ("Y" axis) direction is the longitudinal direction and the horizontal ("X") axis direction is the peripheral direction. In fact,

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this latter point is stated in the Detailed Description of Haindl '867 at Col. 3, lines 34-35 (regarding vertical direction) and line 53 (regarding horizontal direction). The required meander direction in the present invention claims 1 and 60 is the **longitudinal** direction (See claims 1 and 60, lines 11-12).

Further, the Haindl '867 connecting bars (second elongate bars (4)) do not extend rectilinearly in the longitudinal direction of the stent when the stent is in its first condition, as required by claims 1 and 60 of the present invention at lines 7-8. In fact, Figure 1 of Haindl '867, correctly characterized by the Examiner as the "first condition", shows quite clearly that the second elongate bars extend obliquely to the longitudinal direction.

For at least these reasons, the independent claims 1 and 60 in the present application are not anticipated by Haindl '867. With claim 1 not anticipated, claims 2-59 are also not anticipated.

Accordingly, the applicant respectfully requests reconsideration of the rejections. After such reconsideration, it is urged that allowance of all claims will be in order.

Respectfully submitted,

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